

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

Bulletin 2000-3

Issued this 26th day of July, 2000

TO: ALL COMPANIES WRITING LIFE AND ACCIDENT AND HEALTH INSURANCE IN MINNESOTA

SUBJECT: Bloodborne Pathogens Occupational Exposure

Statutory changes were made by the Minnesota Legislature during the 2000 legislative session concerning the testing of crime victims and certain individuals in emergency medical service occupations for exposure to the HIV virus and other bloodborne pathogens. Chapter 422 of the Laws of Minnesota 2000 expands the categories of diseases and the categories of emergency medical occupations entitled to privacy and protocol protections under various chapters of Minnesota Statutes, including chapters 72A, 144, 214, 241 and 246. Authorizations for the release of medical records for insurance purposes are also affected by the new law.

Minnesota Statutes § 72A.20, subd. 29 prohibits life and health insurers from obtaining and using test results in specified situations as a basis for underwriting, canceling, nonrenewing or taking any other actions against a policy. Originally, § 72A.20, subd. 29 applied only to tests for the HIV antibody performed on certain crime victims and patients (§§ 144.761 to 144.769) or performed on emergency medical services personnel (§144.762). Chapter 422 now extends the provisions of § 72A.20, subd. 29 to prohibit the insurer from obtaining or using the results of tests performed in certain circumstances to determine the presence of "bloodborne pathogens" which include, but are not limited to the Hepatitis B virus (HBV), the Hepatitis C virus (HCV) and the HIV virus. In addition, chapter 422 makes § 72A.20, subd. 29 applicable to additional categories of individuals described under Minn. Stat. §§ 144.7401 to 144.7415, §§ 241.33 to 241.342 and §§ 246.71 to 246.722.

All insurers regulated under chapter 61A, 62B and 62S, and all entities providing health, medical, hospitalization, long-term care insurance or accident and sickness insurance regulated under chapters 62A, 62C, 62D or 64B should carefully review chapter 422 to ensure compliance with the new mandates. Although the new law goes into effect August 1, 2000, the Commerce Department will not be requiring insurers to file new policy application forms at this time. The Department is reviewing the issue and will notify companies by a Department Bulletin if new filing requirements will be implemented. Until further notice, existing policy form applications that have been filed with and approved by the Department will be acceptable for use in Minnesota. The fact that the Department has elected not to require amended filings should not be interpreted as a moratorium on or a waiver of the application of the new statutory requirements.

PLEASE BE ADVISED that the Department intends to vigorously enforce the provisions of law prohibiting insurance companies from obtaining or using information protected under § 72A.20, subd. 29. If violations are found, the Department will pursue maximum sanctions against offending companies.

Questions on this Bulletin should be directed to Brian Pennington at 651-296-8218.

JAMES C. BERNSTEIN

Commissioner of Commerce

Acknowledgment Required

An officer of the company must sign and date this page in the space indicated below and return a copy to the Department of Commerce within 15 days of its receipt. The company may return the acknowledgment by either mail or fax. Please send the acknowledgment to the attention of Jim Gibbons, Commerce Analyst, Minnesota Department of Commerce, 133 East Seventh Street, St. Paul, MN 55101. Fax # 651-296-9434.

Receipt Acknowledged this _____ day of _____, 2000.

Company: _____

Acknowledging Officer's Title: _____

Officer's Name: _____

Officer's Signature: _____